

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 609
OFFERED BY MR. PETRI OF WISCONSIN**

Insurance/reinsurance percentages

In section 428 of the amendment, after subsection (a) insert the following new subsection (and redesignate the succeeding subsections accordingly):

1 (b) REDUCTION OF INSURANCE/REINSURANCE PER-
2 CENTAGE.—

3 (1) INSURANCE PERCENTAGE REDUCTION.—

4 Section 428(b)(1)(G) as amended by subsection
5 (a)(1) is further amended by inserting after the mat-
6 ter inserted by such subsection the following: “, ex-
7 cept, for any loan for which the first disbursement
8 of principal is made on or after July 1, 2006, the
9 preceding provisions of this subparagraph shall be
10 applied by substituting ‘96 percent’ for ‘98 per-
11 cent’”.

12 (2) REINSURANCE PERCENTAGE REDUCTION.—

13 Section 428(c)(1) as amended by subsection (a)(2)
14 is further amended by adding after subparagraph
15 (G) as added by such subsection the following new
16 subparagraph:



1 “(H) NEW LOANS.—Notwithstanding sub-
2 paragraphs (A) and (B), but subject to sub-
3 paragraphs (E) and (F), in the case of a loan
4 for which the first disbursement of principal is
5 made on or after July 1, 2006, the Secretary
6 shall apply—

7 “(i) the fourth sentence of subpara-
8 graph (A) by substituting ‘93 percent’ for
9 ‘95 percent’;

10 “(ii) subparagraph (B)(i) by sub-
11 stituting ‘83 percent’ for ‘85 percent’; and

12 “(iii) subparagraph (B)(ii), by sub-
13 stituting ‘73 percent’ for ‘75 percent’.”.

14 (3) INCREASE INSURANCE FOR EXCEPTIONAL
15 PERFORMANCE.—Section 428I (20 U.S.C. 1078–9)
16 is amended to read as follows:

17 **“SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES**
18 **FOR EXCEPTIONAL PERFORMANCE.**

19 “(a) DESIGNATION OF LENDERS AND SERVICERS.—

20 “(1) IN GENERAL.—Whenever the Secretary de-
21 termines that an eligible lender or servicer meets the
22 performance measures required by paragraph (2),
23 the Secretary shall designate that eligible lender or
24 servicer, as the case may be, for exceptional per-
25 formance. The Secretary shall notify each appro-



1 prate guaranty agency of the eligible lenders and
2 servicers designated under this section.

3 “(2) PERFORMANCE MEASURES.—

4 “(A) In determining whether to award a
5 lender or servicer the exceptional performance
6 designation, the Secretary shall require that the
7 lender or servicer be performing at or above the
8 95 percentile of the industry, and demonstrate
9 increased performance against the lender’s or
10 service’s average of the last 3 years on the fac-
11 tors described in subparagraph (B).

12 “(B) The factors on which the Secretary
13 shall require improvement shall include—

14 “(i) delinquency rates;

15 “(ii) the rate at which delinquent ac-
16 counts are restored to good standing;

17 “(iii) default rates;

18 “(iv) the rate of rejected claims; and

19 “(v) any other such measures as de-
20 termined by the Secretary.

21 “(C) In addition, the Secretary shall not
22 make any award of such a designation unless
23 the consequence of the designation is cost-neu-
24 tral to the Federal Government.



1 “(3) ADDITIONAL INFORMATION ON LENDERS
2 AND SERVICERS.—Each appropriate guaranty agen-
3 cy shall provide the Secretary with such other infor-
4 mation in its possession regarding an eligible lender
5 or servicer desiring designation as may relate to the
6 Secretary’s determination under paragraph (1), in-
7 cluding but not limited to any information sug-
8 gesting that the application of a lender or servicer
9 for designation should not be approved.

10 “(4) DETERMINATIONS BY THE SECRETARY.—

11 “(A) The Secretary shall designate an eli-
12 gible lender or servicer for exceptional perform-
13 ance if the eligible lender or servicer meets the
14 performance measures required by paragraph
15 (2).

16 “(B) The Secretary shall make the deter-
17 mination under paragraph (1) based upon the
18 documentation submitted by the eligible lender
19 or servicer as specified in regulation, such other
20 information as provided by any guaranty agen-
21 cy under paragraph (3), and any information in
22 the possession of the Secretary or submitted by
23 any other agency or office of the Federal Gov-
24 ernment.



1 “(C) The Secretary shall inform the eligi-
2 ble lender or servicer and the appropriate guar-
3 anty agency that its application for designation
4 as an exceptional lender or servicer has been
5 approved.

6 “(5) TRANSITION.—

7 “(A) Any eligible lender or servicer des-
8 ignated for exceptional performance as of the
9 day before the date of enactment of the College
10 Access and Opportunity Act of 2005 shall con-
11 tinue to be so designated, and subject to the re-
12 quirements of this section as in effect on that
13 day (including revocation), until the perform-
14 ance standards described in paragraph (2) are
15 established.

16 “(B) The Secretary shall not designate any
17 additional eligible lenders or servicers for excep-
18 tional performance until those performance
19 standards are established.

20 “(b) PAYMENT TO LENDERS AND SERVICERS.—A
21 guaranty agency shall pay, to each eligible lender or
22 servicer (as agent for an eligible lender) designated under
23 subsection (a), 98 percent of the unpaid principal and in-
24 terest of all loans for which claims are submitted for pay-
25 ment by that eligible lender or servicer for the one-year



1 period following the receipt by the guaranty agency of the
2 notification of designation under this section, or until the
3 guaranty agency receives notice from the Secretary that
4 the designation of the lender or servicer under subsection
5 (a)(2) has been revoked.

6 “(c) REVOCATION AUTHORITY.—

7 “(1) The Secretary shall revoke the designation
8 of a lender or a servicer under subsection (a) if the
9 Secretary determines that the lender or servicer has
10 failed to meet the performance standards required
11 by subsection (a)(2).

12 “(2) Notwithstanding any other provision of
13 this section, a designation under subsection (a) may
14 be revoked at any time by the Secretary, in the Sec-
15 retary’s discretion, if the Secretary determines that
16 the eligible lender or servicer has failed to meet the
17 criteria and performance standards established by
18 the Secretary in regulation, or if the Secretary be-
19 lieves the lender or servicer may have engaged in
20 fraud in securing designation under subsection (a),
21 or is failing to service loans in accordance with pro-
22 gram regulations.

23 “(d) DOCUMENTATION.—Nothing in this section
24 shall restrict or limit the authority of guaranty agencies
25 to require the submission of claims documentation evi-



1 denicing servicing performed on loans, except that the
2 guaranty agency may not require greater documentation
3 than that required for lenders and servicers not designated
4 under subsection (a).

5 “(e) SPECIAL RULE.—Reimbursements made by the
6 Secretary on loans submitted for claim by an eligible lend-
7 er or loan servicer designated for exceptional performance
8 under this section shall not be subject to additional review
9 by the Secretary or repurchase by the guaranty agency
10 for any reason other than a determination by the Sec-
11 retary that the eligible lender or loan servicer engaged in
12 fraud or other purposeful misconduct in obtaining des-
13 igation for exceptional performance.

14 “(f) LIMITATION.—Nothing in this section shall be
15 construed to affect the processing of claims on student
16 loans of eligible lenders not subject to this section.

17 “(g) CLAIMS.—A lender or servicer designated under
18 subsection (a) failing to service loans or otherwise comply
19 with applicable program regulations shall be considered in
20 violation of section 3729 of title 31, United States Code.

21 “(h) TERMINATION.—The Secretary may terminate
22 the designation of lenders and servicers under this section
23 if he determines that termination would be in the fiscal
24 interest of the United States.

25 “(i) DEFINITIONS.—As used in this section—



1 “(1) the term ‘eligible loan’ means a loan made,
2 insured or guaranteed under this part; and

3 “(2) the term ‘servicer’ means an entity serv-
4 icing and collecting student loans that—

5 “(A) has substantial experience in serv-
6 icing and collecting consumer loans or student
7 loans;

8 “(B) has an independent financial audit
9 annually which is furnished to the Secretary
10 and any other parties designated by the Sec-
11 retary;

12 “(C) has business systems which are capa-
13 ble of meeting the requirements of this part;

14 “(D) has adequate personnel who are
15 knowledgeable about the student loan programs
16 authorized by this part; and

17 “(E) does not have any owner, majority
18 shareholder, director, or officer of the entity
19 who has been convicted of a felony.”.

20 (4) EFFECTIVE DATE OF AMENDMENTS.—The
21 amendments made by this subsection shall apply
22 with respect loans for which the first disbursement
23 of principal is made on or after July 1, 2006.

 In section 428(a)(2)(A) of the Amendment, strike
 “subparagraph (H)” and insert “subparagraph (I)”.

